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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,082	10/17/2001	Christopher Piche	E201 0010	3163

720 7590 01/21/2005

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EXAMINER	
BATURAY, ALICIA	

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/978,082	PICHE ET AL.	
	Examiner	Art Unit	
	Alicia Baturay	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 October 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 October 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-4 are pending.

Claim Objections

2. Claims 1-4 are objected to because of the following informalities: they are written in an outline format (a), b), etc.), and should be written in sentence form. Appropriate correction is required.

Double Patenting

3. Claims 1-4 of this application conflict with claims 1-4 of Application No. 10/415,153. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

4. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller*

v. Eagle Mfg. Co., 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claims 1-4 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-4 of copending Application No. 10/415,153. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant Admitted Prior Art (AAPA), and further in view of Rogers et al. (U.S. 6,331,854).

8. As to claim 1, AAPA a method for improving interactive animation over a computer network having a client and a server (AAPA, page 1, lines 19-20), comprising: forming a queue of

server messages at the client; adding received server messages to the queue (AAPA, page 1, lines 25-27); calculating the minimum deadline of the server messages in the queue (AAPA, page 1, lines 25-26). But AAPA does not expressly disclose calculating the time to play animations or accelerating the animation if it will take longer to play than the server messages. However, Rogers does teach calculating the time required to play all the currently queued animations (Rogers, col. 7, lines 26-30); and if the time required to play all the currently queued animations is greater than the minimum deadline of the server messages in the queue, accelerating the animation (Rogers, col. 8, lines 22-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine AAPA and Rogers in order to alleviate delays in animation processing (Rogers, col. 1, lines 56-60).

9. As to claim 2, the combination of AAPA and Rogers (AAPA-Rogers) discloses a method for improving interactive animation over a computer network between first and second clients (AAPA, page 1, lines 21-22), comprising: forming a queue of messages from the first client at the second client; adding messages received from the first client to the queue at the second client (AAPA, page 1, lines 25-27); calculating the minimum deadline of the messages in the queue (AAPA, page 1, lines 25-26); calculating the time required to play all the currently queued animations (Rogers, col. 7, lines 26-30); and if the time required to play all the currently queued animations is greater than the minimum deadline of the messages in the queue, accelerating the animation (Rogers, col. 8, lines 22-37).

10. As to claim 3, AAPA-Rogers discloses a computer program product for improving interactive animation over a computer network having a client and a server (AAPA, page 1, lines 19-20), the computer program product comprising: a computer usable medium having computer readable program code means embodied in the medium for forming a queue of messages from the first client at the second client; the computer usable medium having computer readable program code means embodied in the medium, adding received server messages to the queue (AAPA, page 1, lines 25-27); the computer usable medium having computer readable program code means embodied in the medium for calculating the minimum deadline of the server messages in the queue (AAPA, page 1, lines 25-26); the computer usable medium having computer readable program code means embodied in the medium for calculating the time required to play all the currently queued animations (Rogers, col. 7, lines 26-30); and the computer usable medium having computer readable program code means embodied in the medium for determining if the time required to play all the currently queued animations is greater than the minimum deadline of the server messages in the queue, and if it is, accelerating the animation (Rogers, col. 8, lines 22-37).

11. As to claim 4, AAPA-Rogers discloses a computer program product for improving interactive animation over a computer network between a first client and a second client (AAPA, page 1, lines 20-21), the computer program product comprising: a computer usable medium having computer readable program code means embodied in the medium for forming a queue of server messages at the client; the computer usable medium having computer readable program code means embodied in the medium, adding received from the

first client messages to the queue at the second client (AAPA, page 1, lines 25-27); the computer usable medium having computer readable program code means embodied in the medium for calculating the minimum deadline of the messages in the queue (AAPA, page 1, lines 25-26); the computer usable medium having computer readable program code means embodied in the medium for calculating the time required to play all the currently queued animations (Rogers, col. 7, lines 26-30); and the computer usable medium having computer readable program code means embodied in the medium for determining if the time required to play all the currently queued animations is greater than the minimum deadline of the messages in the queue, and if it is, accelerating the animation (Rogers, col. 8, lines 22-37).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Baturay whose telephone number is (571) 272-3981. The examiner can normally be reached at 7:30am - 5pm, Monday - Thursday, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AB

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER